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09/909,026	07/19/2001	Kazunari Matoba	125A 3146	9095

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EXAMINER

LEWIS, RALPH A

ART UNIT

PAPER NUMBER

3732

DATE MAILED: 11/18/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 09/909,026	Applicant(s) MATOBA
	Examiner Ralph Lewis	Art Unit 3732

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE three MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on August 09, 2002, July 29, 2002

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-19 is/are pending in the application.

4a) Of the above, claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-19 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claims _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some* c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) The translation of the foreign language provisional application has been received.

15) Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) Notice of References Cited (PTO-892) 4) Interview Summary (PTO-413) Paper No(s). _____

2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) Notice of Informal Patent Application (PTO-152)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 6) Other: _____

Art Unit: 3732

Drawings

Applicant's proposed drawing corrections of July 29, 2002 have been approved by the examiner.

Objection to the Specification

The specification is awkward and difficult to read with numerous grammatical, syntax and sentence structure errors. A substitute specification in proper idiomatic English and in compliance with 37 CFR 1.52(a) and (b) is required. The substitute specification filed must be accompanied by a statement that it contains no new matter.

Rejections based on Prior Art

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sakurai (6,019,775).

In Figures 5, 6 and 7, Sakurai discloses a medical instrument 41, 51, 71 detachably connected to main body 40, 50, 80 via an adapter 61, 63, 72. The medical instrument/adapter

Art Unit: 3732

assembly includes identification signal output means 62, 64, 74, 75 for actively outputting an identifying signal to the main body 40, 50, 80.

Applicant has amended claim 1 to require that the identifying signals are sent when electric power is received from the main body upon connecting the instrument to the main body.

Although it does not appear to be explicitly stated in Sakurai, the electrical power for powering the signal output means 62, 64, 74, 75 apparently comes from the main body 40, 50, 80 as it is referred to in the claims as the “power source unit” and there are no disclosed power sources (batteries) in the medical instrument handpiece/adapter members. Moreover, applicant’s disclosure of the prior art (Figures 17 and 19) teaches the use of power from the main body for powering the signal source of the medical instrument. To have operated the signal source output means 62, 64, 74, 75 with power from the main body 40, 50, 80, would have been obvious to one of ordinary skill in the art, particularly in view applicant’s admitted disclosure of the prior art in Figures 17 and 19.

In regard to claims 3, 8, 9, 12, 13 and 19, Sakurai does not disclose whether the adapter assemblies 61, 63 and 72 are “tubular” as claimed, however, one of ordinary skill in the art would have found the formation of the Sakurai adapter assemblies into such a common shape obvious. The tubular arrangement is particularly obvious in light of applicant’s prior art disclosure of figure 17 illustrating a tubular shape for such adapters.

Art Unit: 3732

In regard to claims 4-6, note the ROM signal generating means in Figures 4 and 6 of Sakurai. In regard to claims 7, 11, 13 and 19, note the multi-junction 120, 121, 122 connection of Sakurai.

Response to Applicant's Remarks

In response to the rejection based on Sakurai, Applicant argues that several identification signals can be utilized in Applicant's invention other than just the frequency. It is unclear to the examiner how this limitation is set forth in the claims. Applicant points to no language in the claims setting forth such a distinction. Applicant further argues that in his invention an identification signal is provided without having to apply the drive (ultrasonic) signal as is required of Sakurai. While the examiner neither agrees nor disagrees with the assertion, he notes (1) that no such requirement is set forth in the pending claims, (2) there appears to be no specific basis in applicant's specification to provide for such a limitation (applicant has pointed to disclosure) and (3) the examiner finds no such requirement in the Sakurai reference (applicant has pointed to none in the Sakurai reference). Applicant further asserts that Sakurai is limited to ultrasonic frequencies, the examiner agrees but sees no such distinction in the claims. Applicant further argues that applicant's device is capable of distinguishing between instruments of the same type whereas the Sakurai device would not be able to distinguish between two instruments of the same frequency, the examiner agrees, but again sees no such distinction in the claims, nor has applicant

Art Unit: 3732

identified any such language in the claims. Applicant argues many distinctions that are not set forth in the claims.

Action Made Final

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication should be directed to Ralph Lewis at telephone number (703) 308-0770. After Final Fax (703) 872-9303. The examiner works a compressed work schedule and is unavailable every other Friday. The examiner's supervisor, Kevin Shaver, can be reached at (703) 308-2582.

R.Lewis
November 14, 2002


Ralph A. Lewis
Primary Examiner
AU3732